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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)	No. CR 08-00386 RS
)	
Plaintiff,)	
)	UNITED STATES' SENTENCING
v.)	MEMORANDUM
)	
SHANNON JO TOLLIVER,)	
)	Date: August 20, 2008
Defendant.)	Time: 2:00 p.m.
)	

INTRODUCTION

The United States hereby submits its sentencing memorandum in the above-referenced case. On July 23, 2008, defendant Shannon Tolliver (hereinafter "the defendant") entered a guilty plea pursuant to a plea agreement to driving with a blood alcohol percentage of 0.08 or more, in violation of Title 18, United States Code, Section 13, assimilating California Penal Code Section 23152(b). The government has reviewed the Modified Presentence Report and has no objection to the information contained in the report. For the reasons stated below, the government recommends the sentence outlined in the plea agreement, specifically, three years probation, a \$1,000 fine, driving restrictions, and participation in certain DUI-related programs.

THE GOVERNMENT'S SENTENCING RECOMMENDATION

The government believes that a probationary sentence, along with the other conditions outlined in the plea agreement, are reasonable and achieve the goals of sentencing.

The defendant's conduct demonstrated a grave indifference to the safety of the community as well as his own safety by getting behind the wheel of a car after consuming a substantial amount of alcohol. As the defendant admitted in the plea agreement, he drove with a blood alcohol concentration of 0.18 percent, which is more than double the legal limit. He is fortunate that with his extreme impairment he was not injured or harmed another person. Since this is the defendant's first offense, the government believes that a probationary sentence is an appropriate punishment and will deter him from drinking and driving in the future. Furthermore, such a sentence will allow the defendant to obtain substance abuse treatment (if necessary), learn about the dangers of drinking and driving, and allow the Court to monitor his sobriety. The plea agreement also requires the defendant to pay a \$1,000 fine, which will further impress upon him the seriousness of his actions. Finally, the Court is required to impose a special assessment of \$10.00.

DATED: 8/12/08

Respectfully submitted,

JOSEPH P. RUSSONIELLO
United States Attorney

/s/

SUSAN KNIGHT
Assistant United States Attorney